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UNCLAS SECTION 01 OF 06 VIENNA 000157

SIPDIS

STATE FOR G/TIP (JDONNELLY AND AROFMAN), G-ACBLANK, INL, DRL, PRM,  
AIDAC, AND EUR/AGS FOR KGARRY

E.O. 12958: N/A

TAGS: KTIP PHUM KCRM KWMN SMIG KFRD ASEC PREF ELAB AU

SUBJECT: AUSTRIA: NINTH ANNUAL TRAFFICKING IN PERSONS (TIP) REPORT

REF: 08 STATE 132759

¶1. (U) Entire cable is sensitive but unclassified; please treat accordingly.

¶2. (U) Below please find Embassy Vienna's submission for the ninth annual TIP report. Responses are keyed to reftel.

BEGIN TEXT:

¶23. (SBU) THE COUNTRY'S TIP SITUATION

¶A. The available information on trafficking in persons comes from a wide range of sources, including the government's annual reports on trafficking, official law enforcement and judicial statistics, and reports compiled by NGOs. Post considers this data to be reasonably reliable and accurate. Austria is conducting a pilot project with the International Organization of Migration (IOM) to improve the collection of trafficking data in Europe.

¶B. Austria as a Country of Transit and Destination

Government and non-governmental organizations (NGOs) confirm that Austria is both a transit and destination country for trafficked persons. Police say that it is unclear exactly how many victims there are in Austria, as many are never identified or do not identify themselves as trafficked victims. Many remain hidden from law enforcement authorities. Most victims are trafficked into prostitution, although there are also reports of cases of labor exploitation.

Police estimate that the final destinations for many of these victims are other EU countries, especially Italy, France, and Spain. Austria is also a country of destination for traffickers and victims. Until the late 1980s, most trafficked women came from Latin America and Asia. Since the early 1990s, victims have originated almost exclusively from Eastern Europe. Officials believe that trafficked persons come from Romania, Bulgaria, and Hungary, as well as the countries of the former Soviet Union, including Russia, Belarus, Moldova and Ukraine. Almost all of the small number of African trafficking victims come from Nigeria.

Vienna is the largest urban center in Austria and has experienced the majority of the trafficking cases. Trafficking is also a problem in other urban centers, such as Graz, Linz, Salzburg, and Innsbruck. Police believe that trafficking is a problem throughout the country, because of the flexibility of the trafficking network and the demand for "new" prostitutes.

Trafficking in children from Bulgaria and Romania has decreased substantially since 2006 due to GOA cooperation with Romania and Bulgaria in setting up crisis centers in these countries for trafficked children. In 2008, the Crisis Center for Unaccompanied Minors assisted 90 children, compared to 72 in 2007, 319 in 2006 and 700 in 2005.

**T**C. Victims are primarily trafficked into forced prostitution. There were also reports of cases of labor exploitation as housemaids or au pairs.

**T**D. Women from Eastern Europe and some African and Asian countries are more at risk of being trafficked. There is also still some trafficking of Roma and Sinti boys and girls from Romania and Bulgaria.

**T**E. The traffickers are to some extent international organized crime groups, but also smaller groups or Austrian individuals. Often more than one trafficker will handle a trafficked person, handing her off to one intermediary after another until the victim reaches the final destination. Traffickers often attract women by offering lucrative positions, for example as an au pair or a cleaner, in order to lure

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them into trafficking. Children from Romania and Bulgaria tend to be sold by their own families. Victims are moved into Austria, which has no land border controls, as all its neighbors belong to the Schengen area. Often the traffickers subject these women to abuse and require them to repay the traffickers their debt through forced prostitution. One NGO source reports that traffickers use voodoo, trickery, and coercion by family members to entice women from Nigeria. The traffickers will force these women to repay a debt of 15,000-40,000 euros through prostitution.

**T**24. (U) Setting the Scene for the Government's Anti-Tip Efforts:

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**T**A. The government acknowledges that trafficking is a problem in Austria.

**T**B. There is a Task Force on Trafficking in which the Ministries of Foreign Affairs, Justice, Interior, Women's Affairs, Social Affairs, and Economics are represented. The Foreign Ministry has the lead.

**T**C. Victims are often afraid to testify against the traffickers, thus limiting the government's ability to prosecute.

**T**D. The government has a National Action Plan, and in May 2008 the Foreign Ministry issued and made publicly available through its website its annual report on combating human trafficking.

**T**25. (U) Investigation and Prosecution of Traffickers

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**T**A. Existing Laws against TIP:

Article 217 of the Austrian Criminal Code, amended in January 1999, and Article 104a of the Criminal Code, which went into effect in May 2004, are the key provisions for the prosecution of traffickers. Paragraph 1 of Article 217 prohibits "border-crossing trafficking for the purpose of prostitution." Paragraph 1 refers to inducing or recruiting aliens for prostitution. Paragraph 2 of Article 217 covers trafficking for prostitution through deception regarding the purpose of journey to Austria or through coercion or use of force. Article 104a prohibits trafficking for the purpose of sexual exploitation, exploitation of human organs, or labor exploitation.

Article 104 of the Criminal Code deals with trafficking for the purposes of slavery.

Article 114 of the Aliens Police Act of 2005 contains criminal-law provisions on alien smuggling. Sometimes, traffickers are prosecuted under this section of law because facilitation of illegal entry is easier to prove than trafficking and does not require the testimony of victims. With Article 116, the Aliens Police Act also contains a criminal law provision generally prohibiting the exploitation of aliens.

Articles 1325-1329 of the Austrian Civil Code of 1811 provide the basis for civil law compensation of victims due to physical injury, abuse, forced sexual intercourse and deprivation of personal liberty.

Article 20(b) of the Criminal Code provides for asset seizure and the forfeiture of illegal proceeds. In connection with organized crime, all assets are subject to seizure and forfeiture, including bank assets, other financial assets, cars, legitimate businesses, and real estate.

**IB. Punishment of Sex Trafficking Offenses:**

Punishment under Article 217 of the Criminal Code results in sentences from six months to 10 years. Article 104a also provides

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for sentences up to 10 years. Article 104 of the Criminal Code requires sentences ranging from 10 to 20 years. Article 114 of the Aliens Police Act provides for sentences of up to 10 years for persons convicted of alien smuggling. Article 116 of the Aliens Police Act provides for sentences of up to three years for persons who exploit aliens, and under special circumstances, such as the death of the victim, of up to 10 years.

**IC. Punishment of Labor Trafficking Offenses:**

As indicated in para A., Article 104a of the Criminal Code also applies for trafficking for the purpose of labor exploitation, and prescribes sentences of up to 10 years.

**ID. Rape:**

Article 201 of the Criminal Code provides for imprisonment of six months to 10 years for convictions for rape. Under specific circumstances such as torture, sentences can reach 15 years. In cases leading to the death of victims, sentences can reach 20 years.

**IE. Law Enforcement Statistics:**

The Foreign and Justice Ministries have made available detailed statistics, listing all proceedings involving trafficking charges, not only those where trafficking was the main crime. According to these statistics, there were 524 proceedings against suspected traffickers under Article 217 (cross-border trafficking for the purpose of prostitution) in 2007. There were 85 convictions under Article 217, 177 proceedings were pending. Under 104a of the Criminal Code (trafficking), there were 18 proceedings, 2 convictions, and 6 pending proceedings.

The Justice Ministry provided a breakdown of sentences for which trafficking was the leading cause. The court handed out thirty sentences on charges of trafficking.

The court handed out one sentence according to Article 104a of the Criminal Code, which resulted in a partially suspended prison sentence of 12-24 months, of which 4-8 months were not suspended.

The court handed out 29 sentences according to Article 217 of the Criminal Code. This total included 14 non-suspended sentences, 11 partially suspended sentences, and 4 completely suspended sentences.

Out of the 14 non-suspended prison sentences, two received between 3 and 5 years, eight received between 1 and 3 years, two received

between 6 and 12 months, and two received between 3 and 6 months.

11 persons received partially suspended prison sentences. Out of this number, one received a partially suspended prison sentence of more than 24 months. Eight received partially suspended prison sentences of between 12 and 24 months, of which six were for 4 - 8 months not suspended, and two were for 1 - 4 months not suspended. Two received partially suspended prison sentences of between 6 and 12 months, with 2-4 months not suspended.

Three persons received completely suspended prison sentences, of which two were for 6-12 months, and one was for 3-6 months. One person received a suspended fine

#### IF. Training

The government funds training for law enforcement and judicial personnel to identify trafficking victims and to sensitize officials on the issue of trafficking. The NGO Lefoe/IBF provides the training.

#### IG. Cooperation with Other Governments

The government, at both the national and local levels, cooperates

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with authorities from other countries to investigate and prosecute trafficking cases. Cooperation with East European governments has been especially useful in prosecuting trafficking rings. Intensive cooperation with Austria's neighboring countries as well as Belarus, Romania and Ukraine has been successful in disclosing several cases.

Austrian police authorities point to the EU's action plan against trafficking, in effect since December 2, 2005, as a key instrument to coordinate efforts.

#### IH. Extradition

Alien trafficking is an extraditable offense. Under the European Extradition Convention of December 13, 1957, "extradition shall be granted in respect of offenses punishable under the laws of the requesting Party and of the requested Party by deprivation of liberty or under a detention order for a maximum period of at least one year or by a more severe penalty."

II. There is no evidence of government involvement in or tolerance of trafficking.

IJ. N/A

IK. Prostitution is legal in Austria and regulated at the state level. The law requires prostitutes to undergo mandatory health checks, register with authorities, and pay taxes. Prostitutes receive national health insurance. Prostitutes who do not conform to these requirements are subject to prosecution. The legal minimum age in all states is 18. There are 700 legal brothels in Austria and up to three times as many illegal ones. Approximately 500 women are registered as prostitutes in Vienna. The Ministry of Interior and state health authorities monitor the activities of the legal bordellos.

IL. There were no reported cases of trafficking involvement of Austrians in peacekeeping operations

IM. Under Austrian law, any citizen engaging in the sexual abuse of a child in a foreign country is punishable under Austrian law, even if the actions are not punishable in the country where the abuse was committed. There were no reported cases of foreign pedophiles prosecuted, deported, or extradited by Austria. The court prosecuted three elderly men on charges of sexually abusing a minor in Morocco, but the men failed to appear at their September 2008 court date. The case is still pending.

I26. (U) PROTECTION AND ASSISTANCE TO VICTIMS:  
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IA. The Austrian government provides temporary resident status for trafficking victims and subsidizes the NGO LEFOE/IBF which provides assistance and shelter to victims.

IB. Victim Care Facilities

The primary NGO dealing with trafficking in persons in Austria is LEFOE/IBF. Although the group's initial focus upon its creation in 1985 was counseling and educating immigrant women from Latin America, it has since expanded to help female victims of trafficking from all nations.

LEFOE/IBF provides psychological, legal, and health-related counseling and assistance, emergency housing, and German language courses. LEFOE/IBF workers will also assist victims in preparing for court proceedings against traffickers and accompany victims at court. LEFOE/IBF assists victims in returning to their country of origin, including liaising with counseling centers in these countries to ensure that victims receive services upon return.

Outside of Vienna, the "Independent Integration Center for Immigrants" in Linz provides counseling for trafficked women. Innsbruck, Salzburg, Graz, Klagenfurt and St. Poelten provide

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assistance to trafficked women through their intervention centers for domestic abuse. Federal and local governments finance these intervention centers.

NGOs report generally good relations with authorities. Each province also has at least one women's shelter that provides assistance to battered women. Victims of trafficking are allowed to stay in such shelters.

The Vienna Center for Unassisted Minor Aliens offers unaccompanied illegal minors legal, medical, and social assistance, and employs interpreters who help communicate with foreign minors.

IC. The government provides trafficking victims with access to medical services. LEFOE/IBF, which is subsidized by the government, provides legal and psychological assistance.

ID. Article 10(4) of the Aliens Act provides for temporary resident status of at least six months for victims of human trafficking.

IE. Victims may remain in Austria if they meet certain criteria such as the willingness and ability to integrate in Austria. In Albania, the Austrian government provided 1.2 million dollars to fund an OSCE project to assist trafficking victims in reintegrating into society, through providing legal assistance and economic empowerment using small business loans.

IF. Law enforcement authorities refer victims to partner NGOs, which provide care to victims.

IG. In the 70 cases filed under Article 217 of the Criminal Code in 2007 for which trafficking was the main offense, of the 166 victims there were one Austrian and 165 foreigners, out of which 47 were Hungarian, followed by 35 Moldovans, 18 Belarussians, 10 Romanians, and victims from several other European countries. In the 11 cases filed under Article 104a of the Criminal Code in 2007 for which trafficking was the main offense, of the 12 victims one was Austrian and 11 were foreigners - 5 Hungarians, 4 Romanians, one from the Czech Republic and one from Ethiopia. In 2007, LEFOE/IBF provided counseling to 170 victims of trafficking. The largest number were Romanians, followed by Bulgarians. LEFOE/IBF provided shelter to 33 victims.

IH. The government's law enforcement, immigration and social services personnel proactively attempt to identify victims of trafficking. Law enforcement personnel regularly screen red light districts and interview prostitutes to find trafficking victims. Prostitutes are required to undergo weekly health checks with government authorities.

II. Trafficking victims are referred to NGOs offering assistance and

shelter. Victims are not prosecuted for violating laws governing immigration and prostitution, and are granted a 30-day reflection period without requirement to cooperate.

**IJ.** The government encourages victims to assist in the investigation and prosecution of trafficking. Victims may file civil suits for compensation or seek legal action against traffickers. Victims who are material witnesses in court cases may obtain employment and are permitted to leave the country.

**IK.** The government provides special training for government officials in identifying trafficking victims, including addressing the needs of trafficked children. Austrian consulates in source countries attempt to inform visa applicants on the potential dangers of trafficking.

**IL.** N/A (since Austria is not a source country)

**IM.** IOM is the primary international organization working with trafficking victims, involved mainly in the repatriation of victims. Local authorities work closely with IOM.

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**I27. (U) PREVENTION:**  
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**IA.** The government organized and/or supported numerous public awareness events and programs. Austria hosted several international conferences dealing with the subject of trafficking: In April 2008, the Vienna Migration Group held a conference on "Monitoring Approaches towards European Policies in Trafficking in Human Beings." Also in April, the government staged an event honoring the 10th anniversary of the NGO LEFOE/IBF, which included panel discussions and lectures on the issue of trafficking. In May 2008, the government organized a conference in conjunction with the OSCE on the issue of child trafficking. On the EU Day against Trafficking in October 2008, the Ministry for Health, Family and Youth Matters organized a symposium on trafficking and the exploitation of youth. Also in October, the government hosted in conjunction with the NGO LEFOE/IBF an international conference for approximately 100 experts on the continuing development of competence and strategies on trafficking. Austria also spearheads an EU project to standardize data collection on trafficking. The Austrian Federal Ministry of the Interior, in cooperation with IOM Vienna, staged a conference at the European parliament in Brussels in September 2008 on "European Approaches Towards Data Collection on Trafficking in Human Beings." On February 23-24, 2009, there is a follow-up conference on this topic. The government also subsidized several TV programs dealing with the issue of trafficking. In conjunction with Euro 2008, Austria conducted a campaign to protect prostitutes' rights and against forced prostitution.

**IB.** The government monitors immigration patterns for evidence of trafficking.

**IC.** There is a Task Force on Trafficking in which the Ministries of Foreign Affairs, Justice, Interior, Women's Affairs, Social Affairs, and Economy are represented. The Foreign Ministry has the lead.

**ID.** The government has a national action plan on trafficking, which the agencies of the Trafficking Task Force developed. NGOs are also represented in the task force and were consulted in the development of the Action Plan.

**IE.** In the area of demand-reduction, the government employed various measures, many with a focus on the European Soccer Championship in June/July 2008. The government subsidized and widely distributed a brochure by LEFOE/IBF, informing sex workers of their rights and sensitizing the public. The Austrian Social Democrat EU MP Christa Prets initiated and handed out 150,000 copies of an anti-trafficking brochure entitled a "Red Card for forced prostitution." In the province of Lower Austria, the government organized a round-table discussion on the issue of trafficking. The government also published a brochure on child trafficking in Austria, describing the situation of victims and providing advice for assisting victims.

IF. The government continued its campaign encouraging tourists and travel agencies to report cases of witnessed child sex tourism.

IG. The government funds courses conducted by LEFOE/IBF for members of peacekeeping missions, in order to sensitize them to the issue of human trafficking.

28./29. (U) Post has no nominations for Heroes or Best Practices. Post Point of Contact for the TIP Report is Economic-Political Officer Jeremy Chen, Tel +43 (1) 31339-2398, Fax +43 (1) 31339-2916.